

BILL # HB 2261

TITLE: jury trial; CPS cases

SPONSOR: Johnson

STATUS: As Introduced

REQUESTED BY: House

PREPARED BY: Kim Hohman

FISCAL YEAR

2003

2004

2005

EXPENDITURES

General Fund

\$0

See below

FISCAL ANALYSIS

Description

HB 2261 allows a parent to request a jury trial in parental-rights termination cases. The bill also allows an individual alleged to have abused or neglected a child to request a jury trial before the Department of Economic Security (DES) enters a substantiated abuse finding into its central registry.

Estimated Impact

The total General Fund impact of this bill could range from \$0 to \$4.0 million. The substantive changes in the bill could result in cases currently heard in administrative hearings or non-jury trials being heard in a jury trial setting. This change could result in increased court and attorney workload, depending on the number of requests for jury trials. It is unlikely that all of the cases would be heard in a jury trial setting as a result of this bill, but since we do not have information on how many jury requests will be made, the JLBC Staff has provided a range to demonstrate the maximum potential costs of the bill.

The Office of the Attorney General (AG) believes that the costs of the bill could range from \$0 to \$4.3 million, depending on the number of requests for jury trials. The AG estimates that for every case handled through a jury trial, the increased costs to their office would be approximately \$5,200 for parental rights termination cases and approximately \$15,300 for each central registry case. Depending on the number of cases heard through a jury trial, instead of a typical trial or hearing, the AG's Office believes the increased workload could require additional staff.

Analysis

Under current law, parental rights termination cases are handled in a trial setting without juries, and challenges to DES substantiated abuse findings are handled by the AG through the administrative hearing process. This bill would allow an individual contesting either of these types of cases to request a jury trial in the Superior Court. Since jury trials are likely to take longer than non-jury trials or hearings, and since the AG handles these cases, the state could incur additional costs as a result of this bill.

Based on information provided by the AG, in Calendar Year 2002 there were 100 challenges to parental rights termination cases and 248 challenges to central registry substantiated abuse findings. These figures do not include cases in which a child was immediately taken from a home due to abuse, or those cases in which a parent has not contested the administrative or judicial proceedings. The JLBC Staff assumes that the 348 cases identified by the AG are the cases affected by the bill. It is possible, however, that a parent (or other guardian) who would not challenge a case under current law would pursue a jury trial if the option was available.

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The AG costs associated with each type of case are outlined below:

Parental Rights Termination Cases

In CY 2002, the AG handled 100 parental rights termination cases, requiring approximately 70 hours of attorney time per case. This estimate includes preparation time as well as actual trial time. The AG estimates that if these cases were heard in a jury trial setting, each case would require an additional 50 hours of preparation and 20 hours of trial time. These time estimates were confirmed by prosecutors outside of the AG's Office. Since there is no way to predict how many people will request a jury trial under the proposed legislation, we cannot provide a precise estimate of the AG's potential workload increase.

If all of the 100 cases did go to a jury trial however, the JLBC Staff estimates the attorney and legal support staff costs associated with the change to be approximately \$474,800 per year. The additional hours required for jury trials would result in a workload increase of approximately 7,000 hours, or 4 attorney positions. Using the average salary of \$62,200 for an attorney currently working on these cases and adding Employee Related Expenditures (ERE) for these positions, results in attorney costs of approximately \$310,800. In addition, the AG indicates that 1 legal assistant and 1 legal secretary will provide support for 2 attorneys. The 4 attorneys would therefore require 4 legal support staff positions (2 legal assistant positions and 2 legal secretary positions). Using the average salary for a legal assistant of \$36,000 and a legal secretary of \$29,600, and adding ERE, results in total support staff costs of \$164,000.

Combined with the estimated attorney costs associated with all of the 100 parental rights termination cases going to a jury trial, the JLBC Staff estimates the maximum costs incurred by the Attorney General's Office for this portion of the bill to be \$474,800. This estimate does not include other operating expenditures associated with the added positions. Since it is unlikely that all of these cases will result in jury trials, the actual costs of the bill are likely to be less than \$474,800. The JLBC Staff has provided this cost estimate to demonstrate the maximum potential costs of the bill.

The AG's Office indicates that a portion of any increased workload or staff would be paid by other appropriated funds or federal funds. The JLBC Staff estimate assumes that the General Fund would bear the full cost of any additional staff.

Central Registry Cases

In CY 2002, there were 248 challenges to the central registry maintained by DES. These cases were handled through an administrative hearing process, requiring approximately 7 hours of attorney time per case. If these cases were handled in a jury trial setting, the AG estimates that each case would require an additional 193 hours of attorney time. This estimate includes the increased workload associated with the discovery and deposition phases of a jury trial, as well as the time spent in trial and post-trial work. Since we do not know how many individuals will request a jury trial, we cannot determine how the Attorney General's workload will be affected by this bill.

If all of the 248 cases did go to a jury trial however, the JLBC Staff estimates the attorney and legal support staff costs associated with the change to be approximately \$3,509,700 per year. The additional hours required for jury trials would result in a workload increase of approximately 47,900 hours, or 27 attorney positions. Using the average salary of \$71,200 for an attorney currently working on these types of cases and adding Employee Related Expenditures (ERE) for these positions, results in attorney costs of approximately \$2,403,000. Again, the AG indicates that 1 legal assistant and 1 legal secretary will provide support for 2 attorneys. The 27 attorneys would therefore require 27 legal support staff positions (13.5 legal assistant positions and 13.5 legal secretary positions). Using the average salary for a legal assistant of \$36,000 and a legal secretary of \$29,600, and adding ERE, results in total support staff costs of \$1,106,700.

Combined with the estimated attorney costs associated with all of the 248 parental rights termination cases going to a jury trial, the JLBC Staff estimates the maximum costs incurred by the Attorney General's Office for this portion of the bill to be \$3,509,700. This estimate does not include other operating expenditures associated with the added positions. Since it is unlikely that all of these cases will result in jury trials, the actual costs of the bill are likely to be less than \$3.5 million. Again, the JLBC Staff has provided this cost estimate to demonstrate the maximum potential costs of the bill to the state.

Local Government Impact

The JLBC Staff believes there could be increased costs to the Superior Court as a result of this bill. Allowing the parental rights termination and central registry cases to be heard in front of a jury, instead of a typical trial or hearing, would increase juror per diem costs for the counties as well as potentially increase court costs. Since we do not know how many people will request jury trials, the JLBC Staff cannot provide a precise cost estimate to local government. The cost to local government will depend on the number of requested jury trials and the average length of each case. Under current law, jurors receive \$12 per day for jury service.